

# **Exhibit 7**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MARIO H. CAPOGROSSO, :  
Plaintiff, : 18-CV-02710 (MKB)  
v. : 225 Cadman Plaza  
: Brooklyn, New York  
GELBSTEIN, *et al.*, :  
Defendants. : January 10, 2020

TRANSCRIPT OF CIVIL CAUSE FOR STATUS CONFERENCE  
BEFORE THE HONORABLE LOIS BLOOM  
UNITED STATES MAGISTRATE JUDGE

### APPEARANCES:

For the Plaintiff: MARIO H. CAPOGROSSO, *Pro Se*  
21 Sheldrake Place  
New Rochelle, New York 10804

For Alan Gelbstein; Ida JAMES M. THOMPSON, ESQ.  
Traschen; Danielle Calvo: Office of the New York State  
Attorney General  
28 Liberty Street  
New York, New York 10005

Court Transcriber: RUTH ANN HAGER, C.E.T.\*\*D-641  
TypeWrite Word Processing Service  
211 North Milton Road  
Saratoga Springs, New York 12866

Proceedings recorded by electronic sound recording, transcript produced by transcription service.

1 (Proceedings began at 10:50 a.m.)

2 THE CLERK: Civil cause for status conference,  
3 docket number 18-CV-02710, Capogrosso v. Gelbstein, et al.

4 Will the parties please state your names for the  
5 record?

6 MR. CAPOGROSSO: Marion Capogrosso, 21 Sheldrake  
7 Place, New Rochelle, New York, representing myself.

8 MR. THOMPSON: James M. Thompson from the Office of  
9 the New York State Attorney General, representing defendants  
10 Gelbstein, Traschen, Calvo and also non-party of the New York  
11 State Department of Motor Vehicles.

12 THE CLERK: The Honorable Lois Bloom presiding.

13 THE COURT: Good morning, Mr. Capogrosso and  
14 Mr. Thompson. This is a status conference in plaintiff's  
15 civil rights action. We had a conference on November 14th at  
16 which time I ordered the State defendants to answer the  
17 complaint and I ordered the parties to exchange initial  
18 disclosures by December 4th. On December 2nd plaintiff filed  
19 a letter seeking to physical enter DMV to gather information  
20 for discovery. And then there were back and forth between  
21 Mr. Thompson and Mr. Capogrosso about the answer and about DMV  
22 being substituted in. And so I just thought that it would be  
23 best to have today's conference so I could get the parties on  
24 track. Okay.

25 So Mr. Capogrosso, you are entitled to conduct

1 discovery but that does not mean that you go to DMV and try to  
2 question people. There is the Federal Rules of Civil  
3 Procedure, sir. The Federal Rules of Civil Procedure provide  
4 for five methods. I put it in my order to you. Under Rule 33  
5 you can send requests to Mr. Thompson for him or any of the  
6 defendants to answer under oath interrogatories. That's Rule  
7 33. Rule 34 you can make a request to Mr. Thompson for them  
8 to produce documents.

9           Under Rule 30 you can conduct depositions. But the  
10 way that you went about thinking that you were going to walk  
11 into DMV and start questioning people, that is not provided  
12 for in the Federal Rules of Civil Procedures, sir. And I  
13 don't want this to become a situation where for no good reason  
14 things go out of hand and I don't want there to be further  
15 trouble because you're trying to get information in your case.  
16 There's a right way to conduct discovery and there's an  
17 improper way. You can't just walk in and think you're going  
18 to start taking depositions by walking in.

19           So let me just say I would like to address discovery  
20 today. I would also like to address what the defendants are  
21 intending to do regarding naming of the DMV commissioner. I'm  
22 not sure that I understood, Mr. Thompson, so I'd like you to  
23 explain it. I do understand that under Federal Rule 26(d), D  
24 as in David, an officer's successor is automatically  
25 substituted as a party, but I want to make sure so that

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1 said. I don't even know what he's holding up to the court  
2 saying --

3 MR. CAPOGROSSO: I would like to be able to check my  
4 license at liberty when I want to. This is ridiculous.

5 THE COURT: Again, Mr. Capogrosso, if you go into  
6 the DMV the way that you're coming into the court,  
7 interrupting the court, arguing with the court, it's -- you  
8 know, again, sir, you're creating --

9 MR. CAPOGROSSO: No, I want to --

10 THE COURT: You're creating your own record here.

11 MR. CAPOGROSSO: Fine. That's fine. I'll accept it  
12 and I'll stand by it. I want to know why my rights are being  
13 curtailed in going to a DMV and checking my license when I  
14 feel like it.

15 THE COURT: Because they basically think that you  
16 are --

17 MR. CAPOGROSSO: On what basis?

18 THE COURT: -- banned.

19 MR. CAPOGROSSO: On what basis?

20 THE COURT: That's what the case is about. I'm  
21 trying to get at it and you keep wanting to go on all these  
22 sidetracks about what happened with David Smart and I'm trying  
23 to get at the --

24 MR. CAPOGROSSO: No, I don't. I want to know if  
25 I --

1           THE COURT: -- prospective injunctive relief and  
2 you're like I don't want to really get to that, Judge.

3           MR. CAPOGROSSO: No, I want to know if I can go to  
4 the DMV without getting arrested. I'm not --

5           THE COURT: Again, were you ever arrested?

6           MR. CAPOGROSSO: Well, I'm wondering --

7           THE COURT: Were you ever arrested?

8           MR. CAPOGROSSO: I was escorted out, Judge.

9           THE COURT: Excuse me, sir. Were you ever arrested?

10          MR. CAPOGROSSO: I was escorted out. Now, they  
11 should be able to answer this.

12          THE COURT: Now, this was when you went in thinking  
13 that you were going to depose witnesses --

14          MR. CAPOGROSSO: No, on May 11th --

15          THE COURT: -- and waving around --

16          MR. CAPOGROSSO: No, I did not. That's not what I  
17 did. I walked out voluntarily. If you read the affidavit of  
18 Defendant Collins, I walked out voluntarily. Nobody escorted  
19 me out. On May 11th they did. Now, I do need to know if I  
20 have to go down there for a cup of coffee or to see if --

21          THE COURT: Why do you have to get a cup of coffee  
22 at DMV?

23          MR. CAPOGROSSO: Well, because I have a right to,  
24 Judge.

25          THE COURT: Oh, please. You have a right to do a

1 lot of things --

2 MR. CAPOGROSSO: I'm not being told --

3 THE COURT: -- that you are now -- you know, a cup  
4 of coffee? That's what you need to go to the DMV for?

5 MR. CAPOGROSSO: I'm free to. I'm free to.

6 THE COURT: Obviously there's a problem here.

7 They're saying that you're banned.

8 MR. CAPOGROSSO: I'm banned for practicing law.  
9 That's what was initially told to me, practicing law. Not  
10 entering a building and checking my license and go and have a  
11 cup of coffee which every other U.S. citizen in this country  
12 can do.

13 THE COURT: So then if you do that and there are bad  
14 results that will be case number two.

15 MR. CAPOGROSSO: I'll pay the consequences.

16 THE COURT: That will be case number two.

17 MR. CAPOGROSSO: Fine. Let it be.

18 THE COURT: That's right.

19 MR. CAPOGROSSO: Right. I will not be allowed to  
20 practice law. I will abide by your court order. I will.  
21 I've not been -- I was attempting to abide by your order and I  
22 will and I will not get anybody [indiscernible] waving an  
23 order in anybody's face. I said I was there to comply with a  
24 court -- with initial disclosures. Fine. But I will go down  
25 there and if I get arrested, fine. Then there'll be another

1 lawsuit pending.

2 I have a right to check my license. I have a right  
3 to go to the restaurant in the [indiscernible] building.

4 MR. THOMPSON: Your Honor, I would question whether  
5 there's a good faith need to check his license three weeks  
6 after.

7 THE COURT: It doesn't matter. His bigger point is  
8 this is a state-run office and that you're saying he had to  
9 bring in Article 78. That only applied to whether or not he  
10 could practice at the TVB. He's now talking about entering.  
11 As long as he doesn't cause a disturbance and that --

12 MR. CAPOGROSSO: I never did.

13 THE COURT: But, Mr. Capogrosso, I'm telling you if  
14 people cause disturbances --

15 MR. CAPOGROSSO: Well --

16 THE COURT: -- in state or federal or city buildings  
17 that's why people get removed.

18 MR. CAPOGROSSO: I never did.

19 THE COURT: But if you don't, I can't imagine that  
20 there will be a problem.

21 MR. CAPOGROSSO: Fine. I never did. I'll look  
22 online. I'll check my license [indiscernible].

23 MR. THOMPSON: Your Honor, if --

24 MR. CAPOGROSSO: If I'm being prohibited, there's  
25 going to be a second lawsuit.

1           THE COURT: And that's what they'll get. They'll  
2 get a second lawsuit.

3           MR. CAPOGROSSO: They will and they will.

4           MR. THOMPSON: Your Honor, if I may.

5           THE COURT: Yes.

6           MR. THOMPSON: It's the TVB's position that -- or  
7 it's the DMV's position rather that the Traffic Violations  
8 Bureau is open to the public unless you've been banned from  
9 it.

10          THE COURT: But he was banned to practice there. He  
11 wasn't banned from the building.

12          MR. THOMPSON: He was also banned from the premises.

13          THE COURT: Where is that?

14          MR. THOMPSON: I think it's all over the complaint.

15          MR. CAPOGROSSO: It's nowhere on the complaint. I  
16 was ban -- I talked to Ida Traschen about it. I was banned  
17 from practicing law.

18          THE COURT: Again, I think that you need to talk to  
19 your clients about this because I think you're creating an  
20 issue. If it's a public service building he doesn't have the  
21 right to stay there if he's causing a disturbance. He doesn't  
22 have the right to light the place on fire. He doesn't have  
23 the right to go there and do other things, but he has the  
24 right like every other citizen.

25          MR. CAPOGROSSO: There are murderers walking into

1 the DMV.

2 THE COURT: Again, sir, you're not helping yourself  
3 with me by interrupting every time --

4 MR. CAPOGROSSO: Well, that's how I feel, Judge.

5 THE COURT: You're interrupting me every time I  
6 speak, Mr. Capogrosso. I will let you speak. I think you see  
7 that I'll let you speak.

8 So you know, Mr. Thompson, if you have something  
9 that you're going to present when he brings case number two  
10 saying that he was banned from walking in, I think that you  
11 should have legal support for that.

12 MR. THOMPSON: Your Honor, based on our conversation  
13 today I'll confer with my clients.

14 THE COURT: Again, if he goes in and for whatever  
15 reason he causes a disturbance then the -- the State has its  
16 avenues to -- to foreclose that. But again, I don't think  
17 that Mr. Capogrosso's point misses the mark. This is a public  
18 building just like coming into the federal court is a public  
19 building. I will tell you that if people create disturbances  
20 in the federal court that there are ways that they're dealt  
21 with. That's the end of it.

22 MR. CAPOGROSSO: Your Honor, I created no  
23 disturbance on May 11th. I was approached by Defendant Smart.  
24 I didn't create a disturbance.

25 THE COURT: Mr. Capogrosso --

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